



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

McAfee-Wong Cabello Lutsch
Rutherford & Brucculeri, LLP
20333 Tomball Pkwy, 6th Floor
Houston TX 77070

MAILED
OCT 28 2011
OFFICE OF PETITIONS

In re Application of :
Deshmukh et al. :
Application No. 10/067,319 : ON APPLICATION FOR
Filed: February 7, 2002 : PATENT TERM ADJUSTMENT
Docket No. 01.261.01 (920-0150US) :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 4, 2011. The petition will be treated under 37 C.F.R. 1.705(b).

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **two thousand six hundred forty (2640) days**. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 28, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 3258 days. On October 4, 2011, applicants submitted the instant petition. Applicants disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated due to the Office counting overlapping days during the successful appeal period under 37 CFR 1.702(e) twice.

A review of the patent term adjustment calculations for the above-identified application reveals that the Office counted 618 overlapping days during the successful appeal period twice. The Office assessed a 618 day adjustment pursuant to 37 CFR 1.702(a)(2) for the delay in mailing an Examiner's Answer on February 12, 2009 in response to the Appeal Brief, filed

February 5, 2007. However, the entire 37 CFR 1.702(a)(2) adjustment period of 618 days overlaps with the successful appeal period under 37 CFR 1.702(e), beginning with the filing of a Notice of Appeal on September 29, 2006 and ending on August 15, 2011 with the mailing of a decision by the BPAI reversing the examiner. Accordingly, the period of adjustment of 618 days will be removed.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **two thousand six hundred forty (2640) days** (2640 days of Office delay - 0 days of Applicant delay).

The Office acknowledges receipt of the required \$200.00 fee under 37 CFR 1.18(e) is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen for Application No.
10/067,319



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 10067319 Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10067319

Application Filing Date	02/07/2002	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	3258
A Delays	1476	PTO Manual Adjustment	-618
B Delays	0	Applicant Delay (APPL)	0
C Delays	1782	Total PTA (days)	2640

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
88	10/12/2011		P028	Adjustment of PTA Calculation by PTO		618	0
83	09/28/2011		MN/=.	Mail Notice of Allowance			0
82	09/23/2011		OAR	Office Action Review			0
81	09/23/2011		OAR	Office Action Review			0
80	09/23/2011		DVER	Document Verification			0
79	09/23/2011		IREV	Issue Revision Completed			0
78	09/23/2011		N/=.	Notice of Allowance Data Verification Completed			0
77	09/22/2011		EX.R	Reasons for Allowance			0
76	09/22/2011		CNTA	Allowability Notice			0
73	08/15/2011		ELC_RVW	Electronic Review			0
72	08/15/2011		EML_NTF	Email Notification			0
71	08/15/2011	09/29/2006	MAPDR	Mail BPAI Decision on Appeal - Reversed	1782		33
70	08/11/2011		APDR	BPAI Decision - Examiner Reversed			0
69	04/04/2011		EML_NTR	Email Notification			0
68	04/04/2011		PA..	Change in Power of Attorney (May Include Associate POA)			0
67	03/31/2011		C.AD	Correspondence Address Change			0
66	06/03/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
65	06/03/2009		APAS	Assignment of Appeal Number			0
64	04/21/2009		APWD	Appeal Awaiting BPAI Docketing			0
63	04/20/2009		MRBNE	Mail Reply Brief Noted by Examiner			0
62	04/17/2009		RBNE	Reply Brief Noted by Examiner			0
61	04/16/2009		FWDX	Date Forwarded to Examiner			0
60	04/13/2009		APRB	Reply Brief Filed			0
59	02/27/2009		PACC	Exam. Ans. Review Complete			0
58	02/12/2009	06/05/2007	MAPE2	Mail Supplemental Examiner's Answer	618		41
57	02/12/2009		APE2	2nd or Subsequent Examiner's Answer to Appeal Brief			0
56	12/30/2008		APBR	Appeal Brief Review Complete			0
55	12/30/2008		FWDX	Date Forwarded to Examiner			0
54	12/01/2008		RPEA	Resp. to post-examiner ans			0
53	10/31/2008		MPEAC	Mail Post-examiner ans. com			0
52	10/30/2008		PEAC	Post-examiner ans. com			0
51	10/21/2008		APRD	Order Returning Undocketed Appeal to the Examiner			0
50	10/06/2008		DOCK	Case Docketed to Examiner in GAU			0
49	08/12/2008		APWD	Appeal Awaiting BPAI Docketing			0
48	05/19/2008		ARBP	Appeal ready for BPAI review			0
46	06/26/2007		PACC	Exam. Ans. Review Complete			0
45	05/29/2007		MAPEA	Mail Examiner's Answer			0
44	05/24/2007		APEA	Examiner's Answer to Appeal Brief			0
43	04/07/2007		APBR	Appeal Brief Review Complete			0
42	04/07/2007		FWDX	Date Forwarded to Examiner			0
41	02/05/2007		AP.B	Appeal Brief Filed			0
40	01/08/2007		APBD	Notice -- Defective Appeal Brief			0
39	01/06/2007		APBR	Appeal Brief Review Complete			0
38	01/06/2007		FWDX	Date Forwarded to Examiner			0
37.1	11/29/2006		APBI	Defective / Incomplete Appeal Brief Filed			0
37	11/29/2006		AP.B	Appeal Brief Filed			0
36	11/29/2006		XT/G	Request for Extension of Time - Granted			0
33	09/29/2006		N/AP	Notice of Appeal Filed			0
32	08/01/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
31	07/24/2006		CTFR	Final Rejection			0
30	06/15/2006		FWDX	Date Forwarded to Examiner			0
29	06/02/2006		A...	Response after Non-Final Action			0
28	03/27/2006		MCTNF	Mail Non-Final Rejection			0
27	03/20/2006		CTNF	Non-Final Rejection			0
26	03/14/2006		FWDX	Date Forwarded to Examiner			0
24	03/14/2006		ABN9	Disposal for a RCE / CPA / R129			0

25	02/27/2006	RCEX	Request for Continued Examination (RCE)	0
23	02/27/2006	BRCE	Workflow - Request for RCE - Begin	0
22	02/15/2006	MCTAV	Mail Advisory Action (PTOL - 303)	0
21	02/10/2006	CTAV	Advisory Action (PTOL-303)	0
20	02/04/2006	FWDX	Date Forwarded to Examiner	0
19	01/24/2006	A.NE	Amendment after Final Rejection	0
18	12/23/2005	MCTFR	Mail Final Rejection (PTOL - 326)	0
17	12/20/2005	CTFR	Final Rejection	0
16	12/07/2005	DOCK	Case Docketed to Examiner in GAU	0
15	12/02/2005	FWDX	Date Forwarded to Examiner	0
14	11/10/2005	A...	Response after Non-Final Action	0
13	08/12/2005	04/07/2003 MCTNF	Mail Non-Final Rejection	858 0.5
12	08/08/2005	CTNF	Non-Final Rejection	0
11	07/25/2005	DOCK	Case Docketed to Examiner in GAU	0
10	04/01/2005	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
9	02/08/2005	DOCK	Case Docketed to Examiner in GAU	0
8	11/12/2002	DOCK	Case Docketed to Examiner in GAU	0
7	10/04/2002	DOCK	Case Docketed to Examiner in GAU	0
6	05/05/2002	DOCK	Case Docketed to Examiner in GAU	0
5	03/04/2002	OIPE	Application Dispatched from OIPE	0
4	02/27/2002	COMP	Application Is Now Complete	0
2	02/15/2002	SCAN	IFW Scan & PACR Auto Security Review	0
1	02/07/2002	IEXX	Initial Exam Team nn	0
0.5	02/07/2002	EFILE	Filing date	0

Export to: [Excel](#)